

MDR Tracking Number: M5-04-1519-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 1-28-04

The IRO reviewed manual traction, joint mobilization, hot/cold packs, electrical stimulation, therapeutic exercises, myofascial release, office visits, gait training, range of motion measurements rendered from 2-28-03 through 12-12-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	MAR\$ (Maximum Allowable Reimbursement)	IRO Found Medically Necessary
2-28-03 through 3-27-03	97010	\$11.00	The hot/cold packs that were within this time period were denied based upon "F" and will be reviewed in the fee portion of this dispute.
3-7-03 through 4-14-03	97265	\$43.00	9 X \$43.00 = \$387.00
	97122	\$35.00	\$35.00
	97250	\$43.00	3X \$43.00 = \$129.00
	97116	\$38.00	4 X \$38.00 = \$152.00

The IRO concluded that one unit of hot/cold pack on each date of service in dispute from 2-28-03 through 3-27-03; Joint mobilization, manual traction, myofascial release and gait training from 3-7-03 through 4-14-03 were medically necessary. The IRO concluded that any and all treatment rendered beyond 4-14-03, office visits on 4-7, 4-9, 4-11 and 4-14-03; hot/cold packs beyond 3-27-03 were not medically necessary.

On this basis, the total amount recommended for reimbursement (\$703.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 13, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

Per the insurance carrier they paid for date of service 3-3-03, 3-5-03, 3-7-03, and 12-12-03.

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified below. The requestor submitted a copy of a signed certified green card that supports bills were submitted for audit. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
2-28-03	95851(2)	\$76.00	\$0.00	G	\$36.00 X 2 = \$72.00	CPT Code Descriptor	On this date the requestor billed, 95851, 99090, 97032, 97010, 99204MP, 72070WP, 72100WP and 99070. ROM testing is not global to any service billed, reimbursement of \$72.00 is recommended.
3-10-03 3-12-03 3-17-03	97122	\$37.00	\$0.00	F	\$35.00	CPT Code Descriptor	MAR reimbursement of \$35.00 X 3 dates = \$105.00 is recommended.
3-7-03 3-10-03 3-12-03 3-14-03 3-17-03 3-19-03 3-21-03 3-24-03 3-27-03 4-2-03 4-4-03	97010	\$11.00	\$0.00	F	\$11.00	CPT Code Descriptor	MAR reimbursement of \$11.00 X 11 dates = \$121.00 is recommended.
3-7-03 3-10-03 3-12-03 3-14-03 3-19-03 3-21-03 3-24-03 3-27-03 4-2-03	97032 (2)	\$48.00	\$0.00	F	\$22.00 / 15 min X 2 = \$44.00	CPT Code Descriptor	MAR reimbursement of \$44.00 X 9 dates = \$396.00 is recommended.

10-22-03 11-11-03	99213	\$59.00	\$0.00	No EOB	\$48.00	CPT Code Descriptor	MAR reimbursement of \$48.00 X 2 dates = \$96.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$790.00.</b>

### **ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 2-28-03 through 12-12-03 in this dispute.

This Order is hereby issued this 28<sup>th</sup> day of December 2004.

Elizabeth Pickle  
Medical Dispute Resolution  
Medical Review Division

November 2, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

### **REVISED REPORT** **Corrected services in dispute and dates of service.**

Re: Medical Dispute Resolution  
MDR #: M5-04-1519-01  
IRO Certificate No.: 5055

Dear \_\_\_\_:

\_\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWC-60, EOB's & Table of Disputed Services

S.O.A.P. notes for March 2003, April 2003, 10/22/03, 11/11/03, 12/12/03

Summary of PT (\_\_\_)

Electrodiagnostic Exam 04/03/03

ROM 02/28/03

Lumbar MRI 03/14/03

### **Clinical History:**

This claimant is a 44-year-old female who was involved in a work-related accident on \_\_\_\_\_. Therapy was initiated on/about 02/28/03, and the claimant had pain complaints over the inner scapular region, lumbosacral region, and right buttocks. MR imaging of the lumbar spine revealed L5/S1 spondylolisthesis with bilateral spondylolyses, narrowing of the L5/S1 neural foramina with compression of the L5 nerve root bilateral, and bulging of the L4/L5 and L5/S1 disc with no focal disc protrusion. Electrodiagnostics that included nerve conduction velocities (NCV) on 04/03/03 revealed findings consistent with a bilateral L5 lumbosacral radiculopathy.

### **Disputed Services:**

Office visits (99213), manual traction (97122), joint mobilization (97265), hot/cold pack therapy (97010) electrical stimulation (97032), therapeutic exercises (97110), myofascial release (97250), and gait training (97116) during the period of 03/07/03 through 05/05/03.

### **Decision:**

The reviewer partially agrees with the determination of the insurance carrier as follows:

#### Not Medically Necessary:

- Any and all services or treatments rendered beyond 04/14/03.
- Office visits (99213) on 04/07, 04/09, 04/11 & 04/14 2003.
- Hot/cold pack therapy (97010) beyond 03/27/03.

#### Medically Necessary:

- One unit of hot/cold pack therapy (97010) on each date of service in dispute from 02/28/03 through 03/27/03.
- Joint mobilization (97265), manual traction (97122), myofascial release (97250), gait training (97116) from 03/07/03 through 04/14/03.

**Rationale:**

The rationale of the carrier to deny all of the provider's services rendered from 3/07/03 through 05/05/03 is not clear from the reviewed medical record. A portion of the services rendered by the provider are appropriate in the management of the claimant's pain generators. Reviewed medical records indicate that the claimant was injured in a work-related accident. A course of conservative chiropractic/physical therapy management is completely appropriate and necessary in the management and treatment of this claimant's condition.

MR imaging of the lumbar spine on 03/14/03 revealed a L5/S1 spondylolisthesis with a bilateral spondylosis and compression of the L5 nerve root bilaterally. The presence of this pathology warranted a trial of 6 weeks of conservative therapeutics prior to the application of invasive processes to control the claimant's pain generators. Further, the presence of instability over the pars interarticularis will likely cause a slower progression toward functional recovery in the management of this claimant. Failure to obtain functional rehabilitation goals would warrant a consult for possible surgical applications.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Bellamy, R. *Compensation Neurosis: Financial Reward For Illness as a Nocebo*. Clin Orthop 1997 Mar; (336): 94-106.
- M C Timoney C A, et. al. *Current Evaluation and Management of Spondylolysis and Spondylolisthesis*. Curr Sports Med Rep. 2003 Feb; 2 (1): 41-6.
- Sairyo K, et. al. *A New Endoscopic Procedure to Decompress Lumbar Nerve Roots Affected by Spondylolyses. Technical Note*. J Neurosurgery 2003 Apr; 98 (3 suppl): 290-3.

Sincerely,